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MINTZ, LEVIN, COHN, FERRIS
GLOVSKY and POPEO, P.C.
One Financial Center
Boston MA 02111

MAILED

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OFFICE OF PETITIONS

In re Application of
Lawrence Sherman
Application No. 10/817,139
Filed: April 2, 2004
Attorney Docket No. 07473-038

DECISION ON PETITION.

This is a decision on the petition, filed February 5, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file a reply to the restriction requirement of September 1, 2009, which set a one (1) month shortened statutory period for reply. A reply was due on or before October 1, 2009. A Notice of Abandonment was mailed January 28, 2010.

Petitioner contends that pursuant to 37 CFR 1.136, the maximum period for reply is March 1, 2010.

Petitioner's argument is persuasive. A review of the record confirms that to make the reply timely, a maximum of five months could have been obtained. Thus, the submission of the reply on February 5, 2010 with the five-month extension of time was timely. The application was prematurely held abandoned.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3696 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant
Petitions Attorney
Office of Petitions